

BUREAU OF AUTOMOTIVE REPAIR

**INITIAL STATEMENT OF REASONS**

**HEARING DATES:**

Monday, August 22, 2011 at 2:00pm  
Department of Consumer Affairs  
Hearing Room  
1625 North Market Blvd., S-102  
Sacramento, CA 95834

**SUBJECT MATTER OF THE  
PROPOSED REGULATIONS:**

Vehicle Registration Amnesty Program

**SECTIONS AFFECTED:**

§ 3340.38, Chapter 1, Division 33, Title 16,  
California Code of Regulations.

**SPECIFIC PURPOSE OF THE REGULATORY PROPOSAL:**

This proposal establishes a special Referee inspection process for Specially Constructed Vehicles (SPCNS) participating in the vehicle registration amnesty program, pursuant to Section 9565 of the Vehicle Code.

The proposed action would add Section 3340.38 to Article 5.5 of Chapter 1 of Division 33 of Title 16 of the California Code of Regulations. Section 3340.38 identifies the test procedures that Referee stations would use to inspect and certify certain SPCNS.

Recently amended Vehicle Code section 4750.1 provides the Bureau of Automotive Repair (BAR) the authority to charge a vehicle owner a \$160 fee upon initial application for the vehicle registration amnesty program.

**FACTUAL BASIS/RATIONALE:**

BAR which is housed within the Department of Consumer Affairs (DCA), is the state agency responsible for the administration and implementation of the Smog Check Program. To ensure uniform and consistent vehicle inspections, BAR licenses stations and technicians, and certifies Smog Check inspection equipment. In addition, BAR contracts with a neutral third party, known as the Referee. The Referee provides motorists with special inspection services that are not available at ordinary Smog Check stations. In part, these services include the inspection of SPCNS.

This proposed regulatory action responds to Assembly Bill (AB) 2461 (Emmerson, Chapter 388, Statutes of 2010) and AB 619 (Emmerson, Chapter 235, Statutes of 2008), which provided for a registration amnesty program to be established by the Department

of Motor Vehicles (DMV). Specifically, this regulation helps motorists who own SPCNS complete the inspection process.

As part of this legislation, section 9565 of the Vehicle Code specifies that a SPCNS shall be issued a certificate of compliance if the vehicle meets the appropriate tailpipe emissions requirements. Vehicles participating in the registration amnesty program are assigned testing requirements based on model year. The model year for a vehicle is determined by the calendar year in which the vehicle owner applies for the amnesty program.

This regulation identifies the Smog Check inspection procedures for amnesty vehicles as a tailpipe emissions test as specified in section 3340.42 of the California Code of Regulations. The tailpipe emissions requirements are, in part, based on the vehicle model-year as assigned by the DMV. Under this regulation, the Referee would collect a \$160 inspection fee upon initial application for the registration amnesty program, in accordance with section 4750.1 of the Vehicle Code. Due to the unique inspection procedures associated with these vehicles and special software requirements to perform these inspections, all subsequent inspections will be preformed at the Referee.

Referee stations use special test software that is not available in ordinary Smog Check stations. Software changes needed to facilitate these special inspections in ordinary stations would be immensely costly and impractical.

#### **UNDERLYING DATA:**

- AB 2461 (Emmerson, Chapter 388, Statutes of 2010)

#### **BUSINESS IMPACT:**

This regulation will not have a significant adverse economic impact on businesses.

The Referee inspection facilities are operated by the Foundation for California Community Colleges (FCCC) under contract with BAR. Existing law requires the Referee to provide for the testing and certification of SPCNS. The vehicle registration amnesty program, which was in effect from January 1, 2010 through December 31, 2010, only received one participant. BAR expects an increase in the number of consumers participating in the amnesty program because visual and functional tests are not required. In the prior version of the program, visual and functional inspections were required, which most SPCNS could not pass. As a result of these changes, BAR expects higher participation in the new amnesty program, which begins July 1, 2011 and ends June 30, 2012. However, actual participation levels cannot be accurately calculated.

#### **SPECIFIC TECHNOLOGIES OR EQUIPMENT:**

This regulation does not mandate the use of specific technologies or equipment.

### **CONSIDERATION OF ALTERNATIVES:**

No reasonable alternative to the regulation would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Set forth below is the alternative which was considered and the reasons it was rejected:

Alternative 1: BAR considered having Smog Check stations perform the vehicles subsequent biennial Smog Check inspection; however, Smog Check stations currently cannot bypass inspection procedures. Further, computer programming required for this alternative would be unduly expensive and impractical.